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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/758,232 | 01/16/2004 | Atsushi Fukuda | 247648US90 | 5737 |

22850 7590 08/24/2005

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

LACYK, JOHN P

| ART UNIT | PAPER NUMBER |
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3736

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
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| EXAMINER |
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| ART UNIT | PAPER |
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81905

DATE MAILED:

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Commissioner for Patents

See attached

John P Lacyk
Primary Examiner
Art Unit: 3736

1. The reply filed on 06/09/05 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicant argues with respect to claims 5-8 that the combination of D'Andrea and Sanderford does not teach having an in vivo radio device that includes the position measuring unit as claimed. Since claim 5 has been cancelled the examiner with not further comment of claim 5. However with respect to claims 6-8, the examiner's rejection did not state that the references taught the claimed features, but rather specifically addressed claims 6 and 8 and why it would have been obvious to modify the references. Applicant's response only states that the references do not teach the claimed subject matter and fails to discuss the obviousness of the in vivo measuring unit as stated in the rejection. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment.


EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Lacyk whose telephone number is 571-272-4728. The examiner can normally be reached on Mon-Fri, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3736

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John P Lacyk
Primary Examiner
Art Unit 3736

J.P. Lacyk